

Members

Sen. Charles Meeks, Chairman  
Sen. John Waterman  
Sen. Greg Server  
Sen. James Lewis  
Sen. Timothy Skinner  
Sen. Sam Smith  
Rep. Tiny Adams, Vice-Chairperson  
Rep. James Bottorff  
Rep. Paul Robertson  
Rep. Daniel Leonard  
Rep. Marlin Stutzman  
Rep. Dean Young



## INTERIM STUDY COMMITTEE ON LAKE AND WATER ISSUES

*Legislative Services Agency*  
200 West Washington Street, Suite 301  
Indianapolis, Indiana 46204-2789  
Tel: (317) 233-0696 Fax: (317) 232-2554

LSA Staff:

Ken Roney, Attorney for the Committee  
Valerie Ruda, Fiscal Analyst for the Committee

Authority: Legislative Council Resolution 03-01

### MEETING MINUTES<sup>1</sup>

Meeting Date: July 9, 2003  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington  
St., Room 233  
Meeting City: Indianapolis, Indiana  
Meeting Number: 1

**Members Present:** Sen. Charles Meeks, Chairman; Sen. James Lewis; Sen. Timothy Skinner; Sen. Sam Smith; Rep. Daniel Leonard.

**Members Absent:** Sen. John Waterman; Sen. Greg Server; Rep. Tiny Adams, Vice-Chairperson; Rep. James Bottorff; Rep. Paul Robertson; Rep. Marlin Stutzman; Rep. Dean Young.

#### I) Call to Order

Senator Charles Meeks called the first meeting of the Interim Study Committee on Lake and Water Issues to order at 10:05 A.M. The Chairman explained that there would not be enough members present today for a quorum, but noted that this meeting was to determine what the committee would concentrate its efforts on this

---

<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

interim and thus no votes would be taken.

The Chairman then asked the Committee members to introduce themselves.

## II) Agency Testimony Concerning Water Shortage, Lake Management, and Public Lake Issues

Dan Mathis of the Department of Natural Resources (DNR) was recognized by the Chairman to testify first on the issue of lake management.

Mr. Mathis then deferred to Jim Ray of the Division of Soil Conservation to testify. Mr. Ray explained that many of the issues concerning lake management had been discussed in the past few years by the Lake Management Work Group. Mr. Ray went through the final report from the Workgroup highlighting the issues that have been resolved and also talking about issues that still need to be addressed. Mr. Ray pointed out that the Workgroup had not been reestablished in 2002 or 2003 by the General Assembly. Thus many of the issues were left unresolved.

Some of the recommendations Mr. Ray pointed out that had been addressed included:

- dock locations
- lake event organization
- lake/river enhancement fee increase (HEA 1336-2003)

The Chairman then asked Mr. Ray how the enhancement fees were to be distributed and who made those decisions. Mr. Ray explained that the Soil Conservation Board would decide how the funds would be distributed. He also explained that the fee increase would raise revenue from \$1.3 million to \$3.4 million. Mr. Ray commented that most of the funds were distributed in the form of grants to different organizations for law enforcement, sediment removal, and exotic wildlife control projects.

The Chairman then asked if the distributions were for rivers as well as lakes. Mr. Ray testified that the funds would only be available for lakes.

Senator Tim Skinner then asked if Racoon Lake received federal or state monies. Mr. Mathis said that the DNR would be happy to get back to him on this question, but did not have the right person to testify to the issue at this time.

The Chairman then asked that the legislators be notified when the Soil Conservation Board has their next meeting. Mr. Ray said that the board would meet this month and he would be happy to notify all legislators.

Senator Skinner then asked if applications could be made for projects involving tributaries. Mr. Ray said that applications may only be made for lakes and that the issue with tributaries would be a local responsibility.

The Chairman then recognized Mr. Jim Hebenstreit, Assistant Director of the Division of Water, to speak on this matter of sea walls. Mr. Hebenstreit outlined the

current regulation structure for permanent piers, temporary piers, and sea walls.

The Chairman asked if some people were being forced to take out their piers. Mr. Hebenstreit responded that there were some situations where piers had to be removed, and there were still areas where removal was in dispute.

Mr. Hebenstreit then started discussion on allowing property owners to put a wall of glacier stone in front of their concrete sea wall. The DNR now allows this stone if positioned according to their rules. By placing glacier stone in front of the sea wall, property owners then have free reign to replace and repair the stone at their discretion. This differs from a concrete sea wall, which can only be repaired or replaced every six years. The reason for the time constraint is to prevent property owners from pushing their shore line further into the lake each time they replace or repair their sea wall.

Mr. Hebenstreit then explained that there is a need for guidance from this committee regarding sea wall regulation. The DNR has some regulations in place, but Mr. Hebenstreit pointed out that some property owners have found a loophole to avoid the DNR's regulations. The DNR wants to discuss the possibility of extending their jurisdiction for regulating sea walls beyond the shoreline, but only for regulating sea walls.

The Chairman asked if we allow the DNR to enter private property then where does it stop? Mr. Hebenstreit recognized this was a concern and asked that the committee participate in trying to find a viable solution.

The Chairman asked that the DNR draft language as a starting point. He also asked that property owners be asked to testify on the matter.

The Chairman then asked if the sea wall length restriction was 250 feet, and if the DNR was firm on this point. Mr. Mathis said that this was the DNR's interpretation of the rule and the reason for this 250 feet requirement was to give property owners a clear definition to abide by.

The Chairman also asked what the turn around time for a permit was. Mr. Hebenstreit said the turn around time is about 4 to 6 weeks right now.

The Chairman then asked how big a lake or pond had to be before a permit was required. Mr. Hebenstreit responded that no permit was needed if the lake was not for public use or in a flood way.

The Chairman then expressed a desire to invite members of the now expired Indiana Lakes Management Work Group to the next committee meeting in order to hear about the workings and policies that went into the production of their 1999 report.

The Chairman then asked Mr. Hebenstreit to discuss the water shortage plan. Mr. Hebenstreit reviewed the history of the plan and its contents as of today. He explained that the issue needed to be revisited before another drought. Mr. Hebenstreit pointed out that no priorities had been established in the plan, and

thus DNR would have no way to know who should get water first if a drought indeed does occur.

The Chairman pointed out that this is a true cause for concern because of the possible major effect on many citizens and businesses. He then asked if the aquifers were affected by development. Mr. Hebenstreit said that there was some effect.

Senator Skinner then explained that the federal government controls the drainage of Racoon Lake. He said that the problem is that their water drainage numbers are based on old reports, and this causes the lake to be unusable for weeks after draining. He asked if the state revamps these numbers. Mr. Hebenstreit said that the state does not review the numbers for Racoon Lake, but that the Army Corps of Engineers is charged with this duty. Senator Skinner said that he would like to see this change and allow the state to have input.

The Chairman then moved on to the issue of declaring the Elkhart River a drainage area. Mr. Paul Ehret, Deputy Director of DNR, explained that the Elkhart River is not currently a drainage area. He said that the problem is that if declared a drainage area the banks could be clear cut, thus destroying most of the natural habitat.

The Chairman went back to the water shortage plan discussion. He asked if DNR had the funds to move forward in the development of the plan. Mr. Mathis responded that the DNR does have the funds in place.

The Chairman then asked what the DNR's recommendation was on the issue, and whether there was time to develop and implement the plan this year. Mr. Hebenstreit stated that currently the State Emergency Management Agency is authorized to take action in the event of a water emergency, but that no detailed plan establishing enforcement priorities exists. Mr. Ehret explained that the DNR could have a recommendation for a plan, but would need the legislature to pass statutory language on the priorities to be implemented when a shortage occurs.

The Chairman said that he felt uncomfortable proposing legislation when so many details were left to be hammered out. He then asked if there was anyone else in the audience to testify.

Mr. Vince Griffin from the Indiana State Chamber of Commerce (Chamber) was recognized. He explained that the Chamber had pushed for a new plan for three legislative sessions. He explained that in looking at the rainfall charts, shortages seem to be cyclical, and a plan needed to be worked out before the next shortage.

The Chairman asked that DNR draft a new recommended water shortage plan for the committee's next meeting.

Some discussion took place among the members of the committee regarding proposed diversions from Lake Michigan, but it was noted that the Great Lakes Basin Compact applied to such plans.

### III) Committee Discussion

The Chairman then asked if there was any other business to come before the committee today. Seeing none, the Chairman set the next meeting date for 10:00 A.M., August 13, 2003.

### IV) Adjournment

The meeting was adjourned at 11:42 A.M.